

ADJUSTMENT TO BONDING REQUIREMENT

Section 6.4 of the Instructions for Application for Approval as a Nonprofit Budget and Credit Counseling Agency is revised as follows to address provider questions and reflect new information regarding agency distribution practices, including average balances in trust accounts.

4. **Bonding.** Agencies that offer Debt Management Plans must provide the following:
- A surety bond payable to the United States in an amount which is the lesser of: (1) two percent of the Agency's prior year disbursements made from trust accounts based upon the information provided in the last annual audit or fiscal year end financial statement; or (2) equal to the average daily balance maintained in all trust accounts for the six months prior to submission of the application. At a minimum, the bond must be \$5,000.
 - An Agency may receive an offset/credit in the surety bond amount required by the United States Trustee as follows: (1) the Agency has obtained a surety bond, or similar cash, securities, insurance (other than employee fidelity insurance), or letter of credit, in compliance with the requirements of the state, commonwealth, district, or territory ("state") in which the Agency seeks approval from the United States Trustee; (2) the surety bond provides protection for the clients of the Agency; (3) the surety bond, or similar cash, securities, insurance, or letter of credit, must be written in favor of the state or the appropriate state agency; and (4) the offset/credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state. *See Example 1 below.*
 - Proof of adequate employee bonding or fidelity insurance. The amount shall be 50 percent of the surety bond amount calculated prior to any offset/credit that the Agency may receive for state bonds. At a minimum, the employee bond or fidelity insurance must be \$5,000.
 - An Agency may receive an offset/credit in the employee bond/fidelity insurance amount required by the United States Trustee as follows: (1) the Agency has obtained an employee bond or fidelity insurance in compliance with the requirements of a state, commonwealth, district, or territory in which the Agency seeks approval from the United States Trustee; (2) the deductible cannot exceed a reasonable amount considering the financial resources of the Agency; and (3) the offset/credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state. *See Example 2 below.*

Example 1: Surety Bond Offset/Credit

An Agency with total annual disbursements of \$3,000,000 seeks approval in judicial districts located in three states. The disbursements for the clients in each state are \$1,000,000. State 1 has no bonding requirement; State 2 has a fixed surety bond of \$15,000; and State 3 has a bonding requirement of 10 percent of total annual disbursements. The Agency would determine the appropriate U.S. Trustee bonding requirement as follows:

State	Disbursements	2% Bond Requirement *	State Bond Amount	UST Bond Amount
1	\$1,000,000	\$20,000	-0-	\$20,000
2	\$1,000,000	\$20,000	\$15,000	\$5,000
3	\$1,000,000	\$20,000	\$100,000	-0-
Total				\$25,000
* In lieu of two percent of total annual disbursements, an Agency may use its average daily balance maintained in all trust accounts for the six months prior to submission of the application.				

To the extent that an Agency has offset/credited bonds obtained in compliance with state regulations, the Agency must provide a bond calculation, similar to the example above, with the original surety bond provided in compliance with the Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

Example 2: Employee Bond/Fidelity Insurance Offset/Credit

An Agency with total annual disbursements of \$2,000,000 seeks approval in judicial districts located in two states. The disbursements for the clients in each state are \$1,000,000. State 1 has no employee bonding or fidelity insurance requirement and State 2 has an employee bonding or fidelity insurance requirement of 10 percent of monthly average disbursements (\$83,000). The Agency would determine the appropriate U.S. Trustee employee bonding or fidelity insurance requirement as follows:

State	Disbursements	Surety Bond Prior to Any Offsets/Credits*	50% of Surety Bond	State Insurance Amount	UST Insurance Amount
1	\$1,000,000	\$20,000	\$10,000	-0-	\$10,000
2	\$1,000,000	\$20,000	\$10,000	\$8,300	\$1,700
Total					\$17,000
* In lieu of the surety bond calculation based on total annual disbursements, an Agency may use the average daily balance maintained in all trust accounts for the six months prior to submission of the application.					

To the extent that an Agency has offset/credited employee bonding or fidelity insurance obtained in compliance with state regulations, the Agency must provide an insurance calculation similar to the example above when providing proof of the employee bonding or fidelity insurance in compliance with the Application for Approval as a Nonprofit Budget and Credit Counseling Agency.